INDEX

VOLUME 30
1977

LEADING ARTICLES — AUTHOR INDEX

ADAMS, WALTER: *Vertical Divestiture of the Petroleum Majors: An Affirmative Case* 1115

BIALKIN, KENNETH J.: *The Issuer Registration and Distribution Provisions of the Proposed Federal Securities Code* 327

CALVANI, TERRY: *The Early Legal Career of Howell Jackson* 29

CHEEK, JAMES H., III: *Exemptions Under the Proposed Federal Securities Code* 355

ELY, JAMES W., JR.: *"That no office whatever be held during life or good behavior:" Judicial Impeachments and the Struggle for Democracy in South Carolina* 167

FRANK, RICHARD L. & RILL, JAMES F.: *Antitrust Consequences of United States Corporate Payments to Foreign Officials; Applicability of Section 2(c) of the Robinson-Patman Act and Sections 1 and 2 of the Sherman Act* 131

GARRETT, RAY, JR. & WEAVER, WARREN B.: *The Securities and Exchange Commission and the Code* 441

GAYNOR, KEVIN: *The Toxic Substances Control Act: A Regulatory Morass* .. 1149

HAWES, DOUGLAS W.: *Public Utility Holding Company Act of 1935—Fossil or Foil?* 605

KATTAN, JOSEPH: *Knocking on* Wood: *Some Thoughts on the Immunities of State Officials to Civil Rights Damage Actions* 941

LAW, ALFRED J.: *Postregistration Provisions of the Federal Securities Code* 411

LITTLE, H. STENNIS, JR. & THRAILKILL, LARRY T.: *Fiduciaries Under ERISA: A Narrow Path to Tread* 1

LOSS, LOUIS: *The Federal Securities Code—Its Purpose, Plan and Progress: Symposium: The American Law Institute's Proposed Federal Securities Code: Introduction* 315

MATHEWS, ARTHUR F.: *A.L.I. Proposed Federal Securities Code: Part XV —Administration and Enforcement* 465

MORRIS, CHARLES J.: *The Role of the NLRB and the Courts in the Collective Bargaining Process: A Fresh Look at Conventional Wisdom and Unconventional Remedies* 661

RILL, JAMES F. & FRANK, RICHARD L.: *Antitrust Consequences of United States Corporate Payments to Foreign Officials: Applicability of Section 2(c) of the Robinson-Patman Act and Sections 1 and 2 of the Sherman Act* 131

THOMAS, CHARLES W.: *Eighth Amendment Challenges to the Death Penalty: The Relevance of Informed Public Opinion* 1005

THRAILKILL, LARRY T. & LITTLE, H. STENNIS, JR.: *Fiduciaries Under ERISA: A Narrow Path to Tread* 1

WALKER, JOHN A., JR.: *Remedies Under the Tennessee Commercial Code* .. 1197

WEAVER, WARREN B. & GARRETT, RAY, JR.: *The Securities and Exchange Commission and the Code* 441

WECHSLER, HERBERT: *Symposium: The American Law Institute's Proposed Federal Securities Code: Preamble* 311

LEADING ARTICLES — TITLE INDEX

A.L.I. Proposed Federal Securities Code: Part XV—Administration and Enforcement: *Arthur F. Mathews* 465

Antitrust Consequences of United States Corporate Payments to Foreign Officials: Applicability of Section 2(c) of the Robinson-Patman Act and Sections 1 and 2 of the Sherman Act: *James F. Rill & Richard L. Frank* 131

Eighth Amendment Challenges to the Death Penalty: The Relevance of Informed Public Opinion: *Charles W. Thomas* 1005

Exemptions Under the Proposed Federal Securities Code: *James H. Cheek, III* 355

Fiduciaries Under ERISA: A Narrow Path to Tread: *H. Stennis Little, Jr. & Larry T. Thrailkill* 1

Knocking on *Wood:* Some Thoughts on the Immunities of State Officials to Civil Rights Damage Actions: *Joseph Kattan* 941

Postregistration Provisions of the Federal Securities Code: *Alfred J. Law* 411

Public Utility Holding Company Act of 1935—Fossil or Foil?: *Douglas W. Hawes* 605

Remedies Under the Tennessee Commercial Code: *John A. Walker, Jr.* 1197

Symposium: The American Law Institute's Proposed Federal Securities Code: Preamble: *Herbert Wechsler* 311

"That no office whatever be held during life or good behavior:" Judicial Impeachments and the Struggle for Democracy in South Carolina: *James W. Ely, Jr.* 167

The Early Legal Career of Howell Jackson: *Terry Calvani* 39

The Federal Securities Code—Its Purpose, Plan and Progress: Symposium: The American Law Institute's Proposed Federal Securities Code: Introduction: *Louis Loss* 315

The Issuer Registration and Distribution Provisions of the Proposed Federal Securities Code: *Kenneth J. Bialkin* 327

The Role of the NLRB and the Courts in the Collective Bargaining Process: A Fresh Look at Conventional Wisdom and Unconventional Remedies: *Charles J. Morris* 661

The Securities and Exchange Commission and the Code: *Ray Garrett, Jr. & Warren B. Weaver* 441

The Toxic Substances Control Act: A Regulatory Morass: *Kevin Gaynor* 1149

Vertical Divestiture of the Petroleum Majors: An Affirmative Case: *Walter Adams* 1115

SYMPOSIUM

The American Law Institute's Proposed Federal Securities Code 311

SPECIAL PROJECT

Criminal Procedure as Defined by the Tennessee Supreme Court 691

NOTES — AUTHOR INDEX

BRANDT, W. PERRY: *Tying Arrangements and the Individual Coercion Doctrine* 755
CHRISTIANSEN, JAY D.: *Current Problems Facing the Executor Taking the Section 2053 Estate Tax Deduction* 795
ECCARD, WALTER T.: *A Revolution in White—New Approaches in Treating Nurses as Professionals* 839
JONES, SUSAN A.: *Alternative Proposals for the Regulation of an Emergency Strike in the Health Care Industry* 1033
SIMONETTI, D. J.: *Conscious Parallelism and the Sherman Act: An Analysis and a Proposal* 1227

NOTES — TITLE INDEX

ALTERNATIVE PROPOSALS FOR THE REGULATION OF AN EMERGENCY STRIKE IN THE HEALTH CARE INDUSTRY: *Susan A. Jones* 1033
A REVOLUTION IN WHITE—NEW APPROACHES IN TREATING NURSES AS PROFESSIONALS: *Walter T. Eccard* 839
CONSCIOUS PARALLELISM AND THE SHERMAN ACT: AN ANALYSIS AND A PROPOSAL: *D. J. Simonetti* 1227
CURRENT PROBLEMS FACING THE EXECUTOR TAKING THE SECTION 2053 ESTATE TAX DEDUCTION: *Jay D. Christiansen* 795
TYING ARRANGEMENTS AND THE INDIVIDUAL COERCION DOCTRINE: *W. Perry Brandt* 755

RECENT DEVELOPMENTS

Diminished Capacity—Recent Decisions and an Analytical Approach 213
Products Liability—Liability of Transferee for Defective Products Manufactured by Transferor 238

RECENT CASES — CASE NAMES

Abrahamson v. Fleschner 905
Adams v. State 295
Atchison, Topeka & Santa Fe Railway v. Callaway 1271
Community Broadcasting of Boston, Inc. v. FCC 259
Exchange National Bank v. Touche Ross & Co. 110
Franchise Realty Interstate Corp. v. San Francisco Local Joint Executive Board of Culinary Workers 75
Fridrich v. Bradford 122
Gates v. Henderson 881
McPhail v. United States 891
Minarcini v. Strongsville City School District 85
Mitchell v. National Broadcasting Co. 1260
New York Stock Exchange, Inc. v. Bloom 1249

O'Berry v. Wainwright 881
Phillip W. Wrenn 274
SEC v. Bausch & Lomb, Inc. 282
SEC v. World Radio Mission 282
Shimp v. New Jersey Bell Telephone Co. 1074
United States v. Hall 98
United States v. Ware 891
Yott v. North American Rockwell Corp. 1059

BOOK REVIEWS — AUTHOR INDEX

Books are listed by names of authors or editors; names of reviewers are in parentheses.

Green & Nader: VERDICTS ON LAWYERS (Ted Finman) 1281
Hess: ORGANIZING THE PRESIDENCY (Thomas Blau) 305
Horwitz: THE TRANSFORMATION OF AMERICAN LAW, 1780-1860 (Maxwell Bloomfield) 1102
Nader & Green: VERDICTS ON LAWYERS (Ted Finman) 1281
Shaffer: LEGAL INTERVIEWING AND COUNSELING (James R. Elkins) 923
Wessel: THE RULE OF REASON: A NEW APPROACH TO CORPORATE LITIGATION (Donald E. Schwartz) 1108
West: THEY CALL IT JUSTICE: COMMAND INFLUENCE AND THE COURT-MARTIAL SYSTEM (Daniel H. Benson) 1085

BOOK REVIEWS — REVIEWER INDEX

Books are listed by names of reviewers; names of authors or editors are in parentheses.

Benson, Daniel H.: THEY CALL IT JUSTICE: COMMAND INFLUENCE AND THE COURT-MARTIAL SYSTEM (West) 1085
Blau, Thomas: ORGANIZING THE PRESIDENCY (Hess) 305
Bloomfield, Maxwell: THE TRANSFORMATION OF AMERICAN LAW, 1780-1860 (Horowitz) 1102
Elkins, James R.: LEGAL INTERVIEWING AND COUNSELING (Shaffer) 921
Finman, Ted: VERDICTS ON LAWYERS (Nader & Green) 1281
Schwartz, Donald E.: THE RULE OF REASON: A NEW APPROACH TO CORPORATE LITIGATION (Wessel) 1108

UNPUBLISHED STUDENT MANUSCRIPTS*

ABA Statetment of Policy Regarding Lawyers' Responses to Auditors' Requests for Information: Ramifications for the Attorney-Client Privilege
Bond Counsel's Liability in Industrial Revenue Bond Offerings
Educational Ideology and the Supreme Court
Large-Scale Subdivision of Mountain Lands: An Environmental and Land Use Dilemma

Preliminary Injunctions in Government Clayton 7 Cases: The Continuing Need for Effective Standards

Problems Associated with the Implied Warranty of Habitability in the Sale of New Homes

The Abuse and Misuse of Federal Pretrial Procedure

The Constitutionality of State Tax Exemptions for Interest Paid on In-State Municipal Bonds

The Law of the Sea Convention and Provisional Application of International Agreements

The Potash Case: A Model for Extending *Noerr-Pennington* Coverage to Foreign Governments

The Right to Jury Trial and the Age Discrimination in Employment Act of 1967

*Copies will be furnished upon request and payment of the costs of mailing and reproduction.

INDEX DIGEST

Page references followed by an asterisk (*) are to Leading Articles and Book Reviews; those followed by a dagger (†) are to Notes; those not accompanied by a symbol are Recent Developments, Recent Cases, or Special Projects; those followed by a section symbol (§) are unpublished student manuscripts.

ACCOUNTING AND ACCOUNTANTS

ABA Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information: Ramifications for the Attorney-Client Privilege §

ADMINISTRATIVE LAW

A.L.I. Proposed Federal Securities Code: Part XV—Administration and Enforcement 465*

Ripeness—Agency Head's Informal Opinion Letters Unripe for Review When No Substantial Hardship Placed on Parties [*New York Stock Exchange, Inc. v. Bloom*, 562 F.2d 736 (D.C. Cir. 1977)] .. 1249

The Role of the NLRB and the Courts in the Collective Bargaining Process: A Fresh Look at Conventional Wisdom and Unconventional Remedies 661*

The Securities and Exchange Commission and the Code .. 441*

ADMIRALTY

The Law of the Sea Convention and Provisional Application of International Agreements ..... §

A.L.I. PROPOSED FEDERAL SECURITIES CODE

A.L.I. Proposed Federal Securities Code: Part XV—Administration and Enforcement 465*

Cross Reference Index—Federal Securities Laws to Federal Securities Code 627*

Exemptions Under the Proposed Federal Securities Code 355*

Introduction: The Federal Securities Code—Its Purpose, Plan and Progress 315*

Postregistration Provisions of the Federal Securities Code . 411*

Public Utility Holding Company Act of 1935—Fossil or Foil? 605*

The Issuer Registration and Distribution Provisions of the Proposed Federal Securities Code 327*

The Securities and Exchange Commission and the Code .. 441*

AMERICAN LEGAL HISTORY

"That no office whatever be held during life or good behavior:" Judicial Impeachments and the Struggle for Democracy in South Carolina 167*

The Early Legal Career of Howell Jackson 39*

The Transformation of American Law, 1780-1860 (Horwitz) 1102*

ANTITRUST

Antitrust Consequences of United States Corporate Payments to Foreign Officials: Applicability of Section 2(c) of the Robinson-Patman Act and Sections 1 and 2 of the Sherman Act 131*

Conscious Parallelism and the Sherman Act: An Analysis and a Proposal 1227

Noerr-Pennington Immunity for Joint Efforts to Influence Governmental Action—Intent to Cause Competitive Injury, Evidenced by Repeat-

ed, Baseless Opposition Before an Adjudicatory Body, Does Not Result in Loss of *Noerr-Pennington* Immunity Absent Specific Allegations of Conduct External to or Abusive of the Adjudicatory Processes [*Franchise Realty Interstate Corp. v. San Francisco Local Joint Executive Board of Cullinary Workers*, 542 F.2d 1076 (9th Cir. 1976), *cert. denied*, 45 U.S. L.W. 3626 (U.S. March 21, 1977) (No. 76-1023)] 75
Preliminary Injunctions in Government Clayton 7 Cases: The Continuing Need for Effective Standards ..... §
The Potash Case: A Model for Extending *Noerr-Pennington* Coverage to Foreign Governments ..... §
Tying Arrangements and the Individual Coercion Doctrine .....755†
Vertical Divestiture of the Petroleum Majors: An Affirmative Case 1115*

ATTORNEY-CLIENT PRIVILEGE

ABA Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information: Ramifications for the Attorney-Client Privilege §

CIVIL PROCEDURE

Appellate Jurisdiction—Orders Denying Disqualification of Counsel on Ethical Grounds Are Not Final Decisions Subject to Immediate Review Under 28 U.S.C. § 1291 [*Community Broadcasting of Boston, Inc. v. FCC*, 546 F.2d 1022 (D.C. Cir. 1976)] 259
Res Judicata—Challenge of Racial Discrimination Under 42 U.S.C. § 1981 Barred by Prior Submission of Civil Rights Question to State Court [*Mitchell v. National Broadcasting Co.*, 553 F.2d 265 (2d Cir. 1977)] 000
Search and Seizure—Federal Courts Are Bound by Federal Wiretapping Statutes and Will Not Exclude Evidence Seized by State Agents in Violation of More Restrictive State Laws [*United States v. Hall*, No. 73-2826 (9th Cir. Aug. 31, 1976)] 98
The Abuse and Misuse of Federal Pretrial Procedure .... §

CIVIL RIGHTS

Knocking on *Wood:* Some Thoughts on the Immunities of State Officials to Civil Rights Damage Actions 941*

COLLECTIVE BARGAINING

The Role of the NLRB and the Courts in the Collective Bargaining Process: A Fresh Look at Conventional Wisdom and Unconventional Remedies 661*

COMMERCIAL CODE

Remedies Under the Tennessee Commercial Code 1197*

CONSTITUTIONAL LAW

Criminal Procedure—Circuits Split Over Application of Stone v. Powell's "Opportunity for Full and Fair Litigation" [*Gates v. Henderson*, No. 76-2065 (2d Cir. Jan. 12, 1977); *O'Berry v. Wainwright*, 546 F.2d 1204 (5th Cir. Feb. 11, 1977)] ..881
Eighth Amendment Challenges to the Death Penalty: The Relevance of Informed Public Opinion 1005*
Establishment Clause—The Reasonable Accommodation Rule Mandates Unconstitutional Preferences for Religious Workers in Title VII

Actions [*Yott v. North American Rockwell Corp.*, 428 F. Supp. 763 (C.D. Cal. 1977)] 1059
First Amendment—Student's Right to Receive Information Precludes Board's Removal of Allegedly Offensive Books from High School Library [*Minarcini v. Strongsville City School District*, 541 F.2d 577 (6th Cir. 1976)] 85
Search and Seizure—Federal Courts Are Bound by Federal Wiretapping Statutes and Will Not Exclude Evidence Seized by State Agents in Violation of More Restrictive State Laws [*United States v. Hall*, No. 73-2826 (9th Cir. Aug. 31, 1976)] 98

CLAYTON ACT

Tying Arrangements and the Individual Coercion Doctrine ..... 755†

CORPORATE LITIGATION

The Rule of Reason: A New Approach to Corporate Litigation (Wessel) 1108*

CRIMINAL LAW AND PROCEDURE

Criminal Procedure as Defined by the Tennessee Supreme Court 691
Criminal Procedure—Circuits Split Over Application of Stone v. Powell's "Opportunity for Full and Fair Litigation" [*Gates v. Henderson*, No. 76-2065 (2d Cir. Jan. 12, 1977); *O'Berry v. Wainwright*, 546 F.2d 1204 (5th Cir. Feb. 11, 1977)] 881
Diminished Capacity—Recent Decisions and an Analytical Approach 213
Eighth Amendment Challenges to the Death Penalty: The Relevance of Informed Public Opinion 1005
Search and Seizure—Federal Courts are Bound by Federal Wiretapping Statutes and Will Not Exclude Evidence Seized by State Agents in Violation of More Restrictive State Laws [*United States v. Hall*, No. 73-2826 (9th Cir. Aug. 31, 1976)] 98

DAMAGES

Investment Adviser Fraud—A Private Damages Remedy Is Implied Under Section 206 of the Investment Advisers Act of 1940 [*Abrahamson v. Fleschner*, [1976-1977 Transfer Binder] FED. SEC. L. REP. (CCH) ¶ 95,889 (2d Cir. Feb. 25, 1977), *petition for rehearing granted* (2d Cir. April 15, 1977)] 905
Knocking on *Wood:* Some Thoughts on the Immunities of State Officials to Civil Rights Damage Actions ... 941*

DISCRIMINATION

Constitutional Law—The Establishment Clause—The Reasonable Accommodation Rule Mandates Unconstitutional Preferences for Religious Workers in Title VII Actions [*Yott v. North American Rockwell Corp.*, 428 F. Supp. 763 (C.D. Cal. 1977)] 1059
The Right to Jury Trial and the Age Discrimination in Employment Act of 1967 ... §

EDUCATION

Educational Ideology and the Supreme Court ..... §
First Amendment—Student's Right to Receive Information Precludes Board's Removal of Allegedly Offensive Books from High School Library [*Minarcini v. Strongsville City School District*, 541 F.2d 577 (6th Cir. 1976)] ... 85

EMPLOYMENT RETIREMENT INCOME SECURITY ACT

Fiduciaries Under ERISA: A Narrow Path to Tread 1*

ENVIRONMENTAL LAW

Large-Scale Subdivision of Mountain Lands: An Environmental and Land Use Dilemma ..... §

Standing to Sue—Alleged Violation of Private Party's Informational Interest in Environmental Impact Statement Is Sufficient to Establish Standing to Sue to Enforce National Environmental Policy Act [*Atchison, Topeka & Santa Fe Railway v. Callaway*, 431 F. Supp. 722 (D.D.C. 1977)] 1271

The Toxic Substances Control Act: A Regulatory Morass 1149*

ETHICS

ABA Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information: Ramifications for the Attorney-Client Privilege ..... §

Investment Adviser Fraud—A Private Damages Remedy Is Implied Under Section 206 of the Investment Advisers Act of 1940 [*Abrahamson v. Fleschner*, [1976-1977 Transfer Binder] FED. SEC. L. REP. (CCH) ¶ 95,889 (2d Cir. Feb. 25, 1977), *petition for rehearing granted* (2d Cir. April 15, 1977)] 905

EXECUTORS

Current Problems Facing the Executor Taking the Section 2053 Estate Tax Deduction . 795†

FIDUCIARY RELATIONSHIPS

Fiduciaries under ERISA: A Narrow Path to Tread 1*

FOREIGN COMMERCE

Antitrust Consequences of United States Corporate Payments to Foreign Officials: Applicability of Section 2(c) of the Robinson-Patman Act and Sections 1 and 2 of the Sherman Act 131*

The Potash Case: A Model for Extending *Noerr-Pennington* Coverage to Foreign Governments ..... §

FRAUD

Investment Adviser Fraud—A Private Damages Remedy Is Implied Under Section 206 of the Investment Advisers Act of 1940 [*Abrahamson v. Fleschner*, [1976-1977 Transfer Binder] FED. SEC. L. REP. (CCH) ¶ 95,889 (2d Cir. Feb. 25, 1977), *petition for rehearing granted* (2d Cir. April 15, 1977)] 905

GOVERNMENTAL IMMUNITY

Knocking on *Wood:* Some Thoughts on the Immunities of State Officials to Civil Rights Damage Actions ... 941*

Torts—State Liability—Absent Specially Created Statutory Immunity the State Is To Be Treated as a Private Litigant Liable to Those Forseeably Injured by Its Negligent Acts or Omissions [*Adams v. State*, 555 P.2d 235 (Alaska 1976)] 295

HABEAS CORPUS

Constitutional Law—Criminal Procedure—Circuits Split Over Application of Stone v. Powell's "Opportunity for Full and Fair Litigation" [*Gates v. Henderson*, No. 76-2065 (2d Cir. Jan. 12, 1977); *O'Berry v. Wainwright*, 546 F.2d 1204 (5th Cir. Feb. 11, 1977)] 881

HEALTH AND HEALTH CARE

Alternative Proposals for the Regulation of an Emergency Strike in the Health Care Industry ..... 1033†
A Revolution in White—New Approaches in Treating Nurses as Professionals ... 839†
Occupational Safety and Health —Employee's Common Law Right to a Safe Workplace Compels Employer to Eliminate Unsafe Conditions [*Shimp v. New Jersey Bell Tel. Co.*, 145 N.J. Super. 516, 368 A.2d 408 (Ch. Div. 1976)] 1074

HOUSING

Problems Associated with the Implied Warranty of Habitability in the Sale of New Homes ..... §

IMPEACHMENTS

"That no office whatever be held during life or good behavior:" Judicial Impeachments and the Struggle for Democracy in South Carolina 167*

INJUNCTIONS

Preliminary Injunctions in Government Clayton 7 Cases: The Continuing Need for Effective Standards ..... §
Securities Regulation—Courts Disagree Whether SEC Must Allege and Prove Scienter in Injunctive Actions Under Section 10(b) and Rule 10b-5 [*SEC v. Bausch & Lomb, Inc.*, 420 F. Supp. 1226 (S.D. N.Y. 1976); *SEC v. World Radio Mission, Inc.*, 544 F.2d 535 (1st Cir. 1976)] 282

INTERNATIONAL LAW

The Law of the Sea Convention and Provisional Application of International Agreements ..... §

JUDICIAL HISTORY

"That no office whatever be held during life or good behavior:" Judicial Impeachments and the Struggle for Democracy in South Carolina 167*
The Early Legal Career of Howell Jackson 39*

JUDICIAL REVIEW

Military Law—The Role of the Military Judiciary—The United States Court of Military Appeals Strengthens Judicial Control of Courts-Martial and Expands Its Scope of Appellate Review [*United States v. Ware*, 24 C.M.A. 102, 51 C.M.R. 275 (1976); *McPhail v. United States*, 24 C.M.A. 304, 52 C.M.R. 15 (1976)] 891

JURISDICTION

Appellate Jurisdiction—Orders Denying Disqualification of Counsel on Ethical Grounds Are Not Final Decisions Subject to Immediate Review Under 28 U.S.C. § 1291 [*Community Broadcasting of Boston, Inc. v. FCC*, 546 F.2d 1022 (D.C. Cir. 1976)] 259

LABOR LAW

Alternative Proposals for the Regulation of an Emergency Strike in the Health Care Industry ..... 1033†
Fiduciaries Under ERISA: A Narrow Path to Tread 1*
Occupational Safety and Health—Employee's Common Law Right to a Safe Workplace Compels Employer to Eliminate Unsafe Conditions [*Shimp v. New Jersey Bell Tel. Co.*, 145 N.J. Super. 516, 368 A.2d 408 (Ch. Div. 1976)] 1074

The Role of the NLRB and the Courts in the Collective Bargaining Process: A Fresh Look at Conventional Wisdom and Unconventional Remedies 661*

LEGAL PROFESSION

Legal Interviewing and Counseling 923*
Verdicts on Lawyers 1281*

MEDICAL PROFESSION

A Revolution in White—New Approaches in Treating Nurses as Professionals ... 839†

MILITARY LAW

The Role of the Military Judiciary—The United States Court of Military Appeals Strengthens Judicial Control of Courts-Martial and Expands Its Scope of Appellate Review [*United States v. Ware*, 24 C.M.A. 102, 51 C.M.R. 275 (1976); *McPhail v. United States*, 24 C.M.A. 304, 52 C.M.R. 15 (1976)] .. 891

MUNICIPAL BONDS

Bond Counsel's Liability in Industrial Revenue Bond Offerings ..... §
The Constitutionality of State Tax Exemptions for Interest Paid on In-State Municipal Bonds ..... §

NATIONAL LABOR RELATIONS BOARD

The Role of the NLRB and the Courts in the Collective Bargaining Process: A Fresh Look at Conventional Wisdom and Unconventional Remedies 661*

NEGLIGENCE

State Liability—Absent Specially Created Statutory Immunity the State Is To Be Treated as a Private Litigant Liable to Those Foreseeably Injured by Its Negligent Acts or Omissions [*Adams v. State*, 555 P.2d 235 (Alaska 1976)] 295

NOERR-PENNINGTON

Noerr-Pennington Immunity for Joint Efforts to Influence Governmental Action—Intent to Cause Competitive Injury, Evidenced by Repeated, Baseless Opposition Before an Adjudicatory Body, Does Not Result in Loss of *Noerr-Pennington* Immunity Absent Specific Allegations of Conduct External to or Abusive of the Adjudicatory Processes [*Franchise Realty Interstate Corp. v. San Francisco Local Joint Executive Board of Cullinary Workers*, 542 F.2d 1076 (9th Cir. 1976), *cert. denied*, 45 U.S.L.W. 3626 (U.S. Mar. 21, 1977) (No. 76-1023)] 75
The Potash Case: A Model for Extending *Noerr-Pennington* Coverage to Foreign Governments ..... §

PENSIONS

Fiduciaries Under ERISA: A Narrow Path to Tread 1*

PRESIDENCY

The Continuing Presidential Dilemma 305*

PRODUCTS LIABILITY

Liability of Transferee for Defective Products Manufactured by Transferor 238

QUESTIONABLE PAYMENTS

Antitrust Consequences of United States Corporate Payments to Foreign Officials: Applicability of Section 2(c) of the Robinson-Patman Act

and Sections 1 and 2 of the Sherman Act 131*

RACE RELATIONS

Reverse Discrimination After *McDonald:* Legality of Affirmative Action Under the Federal Civil Rights Acts .. §

REAL PROPERTY

Large-Scale Subdivision of Mountain Lands: An Environmental and Land Use Dilemma ..... §

REMEDIES

Remedies Under the Tennessee Commercial Code 1197*

RES JUDICATA

Challenge of Racial Discrimination Under 42 U.S.C. § 1981 Barred by Prior Submission of Civil Rights Question to State Court [*Mitchell v. National Broadcasting Co.*, 553 F.2d 265 (2d Cir. 1977)] 1260

RIPENESS

Administrative Law—Ripeness—Agency Head's Informal Opinion Letters Unripe for Review When No Substantial Hardship Placed on Parties [*New York Stock Exchange, Inc. v. Bloom*, 562 F.2d 736 (D.C. Cir. 1977)] 1281

ROBINSON-PATMAN ACT

Antitrust Consequences of United States Corporate Payments to Foreign Officials: Applicability of Section 2(c) of the Robinson-Patman Act and Sections 1 and 2 of the Sherman Act 131*

SCHOOLS & SCHOOL DISTRICTS

Constitutional Law—First Amendment—Student's Right to Receive Information Precludes Board's Removal of Allegedly Offensive Books from High School Library [*Minarcini v. Strongsville City School District*, 541 F.2d 577 (6th Cir. 1976)] 85

Educational Ideology and the Supreme Court ..... §

SEARCH AND SEIZURE

Constitutional Law—Search and Seizure—Federal Courts Are Bound by Federal Wiretapping Statutes and Will not Exclude Evidence Seized by State Agents in Violation of More Restrictive State Laws [*United States v. Hall*, No. 73-2826 (9th Cir. Aug. 31, 1976)] 98

SECURITIES

A.L.I. Proposed Federal Securities Code: Part XV—Administration and Enforcement 465*

Cross Reference Index—Federal Securities Laws to Federal Securities Code 627*

Exemptions Under the Proposed Federal Securities Code 355*

Introduction: The Federal Securities Code—Its Purpose, Plan and Progress 315*

Investment Adviser Fraud—A Private Damages Remedy Is Implied Under Section 206 of the Investment Advisers Act of 1940 [*Abrahamson v. Fleschner*, [1976-1977 Transfer Binder] FED. SEC. L. REP. (CCH) ¶ 95,889 (2d Cir. Feb. 25, 1977), *petition for rehearing granted* (2d Cir. April 15, 1977)] 905

Postregistration Provisions of the Federal Securities Code 411*

Public Utility Holding Company Act of 1935—Fossil or Foil? 605*

Securities Fraud—Proof of Causation in 10b-5 Nondis-

closure Cases Involving Trading on Impersonal Markets [*Fridrich v. Bradford*, [Current] FED. SEC. L. REP. (CCH) ¶ 95,723 (6th Cir. Sept. 15, 1976), *cert. denied*, 45 U.S.L.W. 3460 (Jan. 11, 1977)] 122
Securities Regulation—Courts Disagree Whether SEC Must Allege and Prove Scienter in Injunctive Actions Under Section 10(b) and Rule 10b-5 [*SEC v. Bausch & Lomb, Inc.*, 420 F. Supp. 1226 (S.D. N.Y. 1976); *SEC v. World Radio Mission, Inc.*, 544 F.2d 535 (1st Cir. 1976)] 282
Securities Regulation—Definition of "Security"—Promissory Notes with Maturities Exceeding Nine Months Are Presumed to Be Securities Under the 1934 Act Unless Issued in a Context Closely Resembling One of Six Examples of Commercial Transactions [*Exchange National Bank v. Touche Ross & Co.*, 544 F.2d 1126 (2d Cir. 1976)] 110
The Issuer Registration and Distribution Provisions of the Proposed Federal Securities Code 327*
The Securities and Exchange Commission and the Code ..441*

SHERMAN ACT

Antitrust Consequences of United States Corporate Payments to Foreign Officials: Applicability of Section 2(c) of the Robinson-Patman Act and Sections 1 and 2 of the Sherman Act 131*
Conscious Parallelism and the Sherman Act: An Analysis and a Proposal .....1227†

TAXATION

Estate and Gift Taxation—Current Problems Facing the Executor Taking the Section 2053 Estate Tax Deduction .....795†
Income Taxation—Interspousal Installment Sales—Taxpayers Required to Establish Purpose Other than Tax Advoidance to Qualify Under Section 453 of the Internal Revenue Code [Phillip W. Wrenn, [1976] TAX CT. REP. DEC. (P-H) 305 (Dec. 23, 1976)] 274

TENNESSEE LAW

Criminal Procedure as Defined by the Tennessee Supreme Court 691
Remedies Under the Tennessee Commercial Code 1197*

TORTS

Bond Counsel's Liability in Industrial Revenue Bond Offerings ..... §
Occupational Safety and Health—Employee's Common Law Right to a Safe Workplace Compels Employer to Eliminate Unsafe Conditions [*Shimp v. New Jersey Bell Tel. Co.*, 145 N.J. Super. 516, 368 A.2d 408 (Ch. Div. 1976)] 1074
Products Liability—Liability of Transferee for Defective Products Manufactured by Transferor 238
State Liability—Absent Specially Created Statutory Immunity the State Is To Be Treated as a Private Litigant Liable to Those Foreseeably Injured by Its Negligent Acts or Omissions [*Adams v. State*, 555 P.2d 235 (Alaska 1976)] 295

UNITED STATES SUPREME COURT

Educational Ideology and the Supreme Court ..... §

The Early Legal Career of Howell Jackson 39*

WARRANTY

Problems Associated with the Implied Warranty of Habitability in the Sale of New Homes ..... §

WIRETAPPING

Search and Seizure—Federal Courts Are Bound by Federal Wiretapping Statutes and Will Not Exclude Evidence Seized by State Agents in Violation of More Restrictive State Laws [*United States v. Hall*, No. 73-2826 (9th Cir. Aug. 31, 1976)] .. 98